

20 MARCH 1947

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20 MARCH 1947

I N D E X
of
EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
341	2382		Telegram from the Japanese Foreign Minister to the Japanese Minister to Germany, Japan's Reply Re- leasing the Mukden Peninsula, dated 5 May 1895		18786

Thursday, 20 March, 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, same as before with the
exception of: HONORABLE JUSTICE JU-AO MEI, Member from
the Republic of China, now sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese to
English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except OKAWA and MATSUI, who are represented by
5 counsel. We have a certificate from the prison
6 surgeon, Sugamo, that MATSUI is too ill to attend
7 the trial today. The certificate will be recorded
8 and filed.

9 Major Moore.

10 LANGUAGE ARBITER (Major Moore): Mr. Presi-
11 dent, with the Tribunal's permission we present errata
12 sheet for exhibit No. 2377, dated 17 March.

13 In view of our statement found on record
14 page 18,464, we deem it unnecessary to read all the
15 corrections into the transcript. Attention is called
16 to the following:

17 Record page 18,450, line 20, substitute
18 "teachers of military training" for "training teachers."

19 Record page 18,455, line 17, substitute "week"
20 for "year." Line 18, insert "at least" before "one
21 and."

22 Record page 18,459, line 5, delete "to the
23 schools."

24 THE PRESIDENT: Thank you, Major.

25 Colonel Warren.

1 MR. WARREN: We would like to make a reference
2 to exhibit 2257, which is defense document No. 163,
3 which is a telegram under date of May 3, 1895,
4 dispatched from the Japanese Minister in Russia to
5 the Japanese Foreign Minister. It has been with the
6 Tribunal, and shows that Russia didn't want Japan in
7 Manchuria for fear that she might get Port Arthur.

8 At this time document No. 341 will be offered
9 as evidence. It is a telegram of May 5, 1895, from
10 the Japanese Foreign Minister to the Japanese Minister
11 to Germany, Japan's reply releasing the Mukden Penin-
12 sula.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Defense document No. 341
15 will receive exhibit No. 2382.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2382, and was received in evidence.)

19 MR. WARREN: (Reading) "Defense Document
20 No. 341. (The year 1895) Kyoto, May 5, 1895.
21 Telegram. To: Minister AOKI, Germany. Minister SONE,
22 France. From: Minister of Foreign Affairs, MUTSU.

23 "Your Excellencies are kindly requested to
24 translate the following memorandum into German/French
25 and to submit it to the German/French governments:

1 " 'In accordance with the friendly advice of
2 the German-Russian and French-Russian and German-French
3 governments, the Japanese Government agrees to renounce
4 permanently the occupation of the Mukden Peninsula.' "

5 " In presenting this memorandum, Your Excel-
6 lencies are also requested to express the following:

7 " 'Because of the inadmissibility of the
8 proposition of the Japanese Government on the part of
9 Russian Government, and because of our earnest desire
10 to terminate the present situation, we consider it to
11 be the best policy to follow the first advice of the
12 three nations without awaiting a reply from the
13 German/French Governments to the memorandum which
14 we previously delivered.' "

15 " For your Excellencies' reference, the
16 following is also added:

17 " I. The Japanese Government retains the
18 right to claim remuneration from China for the land
19 which she has renounced.

20 " II. The Japanese Government retains the right
21 to occupy the said peninsula for some time as a
22 security measure for China's fulfillment of its
23 treaty obligations to Japan."

24 Defense document No. 403 will be offered as
25 evidence. It is a note of the Japanese Foreign

1 Minister under date of 1895 to Russia, Germany and
2 France.

3 MR. TAVENNER: Your Honor, that document
4 has not been served on us.

5 MR. WARREN: If the Tribunal please, that is
6 right. I hadn't finished my remarks. We will offer
7 it at a later date, but this is where it fits. Because
8 of mechanical difficulties we have been unable to
9 reproduce it at this time.

10 Reference will be made to exhibit 2286 (defense
11 document 216) which is a telegram from the Japanese
12 Foreign Minister to the Minister of Russia under date
13 of May 5, 1895, wherein Japan abandoned permanent
14 occupation of the Mukden Peninsula.

15 Defense document No. 344 will be offered as
16 evidence at this time. Although it was rejected once
17 before, we offer it here again to show that the
18 so-called Three Powers Intervention was motivated
19 by territorial ambitions of the said Powers. The
20 document is a telegram from the Japanese Charge
21 d'Affairs in Germany to the Japanese Foreign Minister
22 on December 5, 1923, disclosing the German policy in
23 1895. According to the transcript of February 26th
24 of this Tribunal, the President remarked that "if Japan
25 was obliged to disgorge any territory or acquisitions

1 that can be proved from history. It will be judicially
2 notice^d, probably." The defense prays that the Tri-
3 bunal would perhaps take judicial notice that Germany
4 forced China to concede the Kiaochow Bay, France the
5 Kwangchow Bay, Great Britain the port of Wei-hai-wei,
6 and Russia the Liaotung Peninsula. Defense document
7 No. 344 will show that the division of China into
8 spheres of influence of these Powers endangered the
9 very existence of Japan.

10 **MR. TAVENNER:** We do not have available a
11 copy of that document. But we make the same objec-
12 tions that were made when it was originally introduced,
13 and urge that the matters mentioned therein are irrele-
14 vant and immaterial to any of the issues involved here.

15 **THE PRESIDENT:** When a document is admitted
16 on the usual terms that doesn't mean that you will be
17 able to raise the same old objections over again.

18 **MR. TAVENNER:** I think your Honor misunder-
19 stood defense counsel's statement. This document
20 was rejected when it was first tendered.

21 **THE PRESIDENT:** Like another colleague from
22 whom I have just received a note, I find it difficult
23 to hear what Colonel Warren is saying because of his
24 throat affection.
25

MR. TAVENNER: Of course, we feel that there

1 is no reason now why the document should be admitted
2 when it was formerly rejected.

3 MR. WARREN: If the Tribunal please, the
4 document was rejected because at that time the Court
5 did not think it material. But the observation was
6 made, I believe, that its materiality might become
7 more apparent at a later time and it could be
8 re-offered, and we are offering it. We feel it ma-
9 terial at this time.

10 THE PRESIDENT: That doesn't seem to be
11 material. It is not in the same category as the
12 other documents we have recently dealt with.

13 The objection is upheld. The document is
14 again rejected.
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1 MR. WARREN: We refer to exhibit 2288,
2 defense document 162, which is a secret treaty of
3 alliance between China and Russia, signed at
4 St. Petersburg in May, 1896. In particular, reference
5 will be made to Article III, whereby all Chinese
6 ports were opened to Russian warships; and to
7 Article IV, whereby the construction of a railroad
8 towards Vladivostok was agreed upon; and to Article V,
9 whereby Russia obtained the right to transport troops.

10 THE PRESIDENT: Am I right in saying that last
11 night I read this in the Lytton Report?

12 MR. WARREN: Yes, your Honor; we are making
13 reference to this only. This has already been
14 introduced in evidence.

15 THE PRESIDENT: Well, why refer to it?
16 The Lytton Report covers it. There is no contest about
17 the existence of the treaty and its provisions.

18 MR. WARREN: However, your Honor, in connection
19 with that treaty, defense document No. 308 will be
20 offered as evidence. This is an agreement concerning
21 the construction and management of the Chinese Eastern
22 Railway, signed at Berlin on August 27, 1876, between
23 Chinese Minister to Russia and the Russo-Chinese Bank.
24 This is the first and basic treaty for the construction
25 of railways under Russian control in Manchuria. There

1 followed another treaty between Russia and China
2 signed on July 6, 1898, referring to the construction
3 of South Manchurian branch of the so-called Chinese
4 Eastern Railway. Owing to mechanical difficulties,
5 however, the processing of this document has not been
6 completed yet and we therefore ask the Tribunal, if
7 they think it relevant, to permit us to produce it at
8 a later time. We desire to read only the preamble
9 to this treaty.

10 THE PRESIDENT: Mr. Tavenner.

11 MR. TAVENNER: Your Honor, this document has
12 been served on us, and I would prefer that the matter
13 be disposed of at this time rather than for it to be
14 continued.

15 I understand you are offering defense document
16 308?

17 MR. WARREN: That is right.

18 MR. TAVENNER: At any rate, we have two ob-
19 jections to the introduction of this document. One
20 is that it is purely repetitive in character, having
21 been dealt with at pages 32 and 33 of the Lytton
22 Report. In addition, whatever rights Japan had in the
23 railroad in that country were acquired as the result
24 of the Portsmouth Treaty, and there would seem to be
25 no necessity of returning to details occurring prior

1 to the Portsmouth Treaty on that point.

2 THE PRESIDENT: We have all the salient
3 facts. Now if we are offered a mass of details it
4 won't guide us.

5 MR. WARREN: Your Honor, the following
6 document which we had, 309, falls in the same category.

7 THE PRESIDENT: Why overburden the Court with
8 unnecessary material? It is all in the record so far
9 as it is usable.

10 MR. WARREN: We didn't feel it was, your
11 Honor. However, if the Court feels it is and it can't
12 be of assistance to the Court, of course we don't
13 want to clutter up the record with it.

14 THE PRESIDENT: Our position is clear. We
15 are not shutting out any evidence, but we are refusing
16 to receive it twice.

17 The objection is upheld.

18 MR. WARREN: Your Honor, I should like to make
19 this observation. Reference only has been made to
20 these documents. They are not in evidence except
21 by a very brief reference.

22 THE PRESIDENT: Perhaps in chambers the par-
23 ties could agree upon admissions which would cut down
24 this evidence very materially. We know that is con-
25 fined to civil proceedings and other jurisdictions.

1 But it isn't inconsistent with a fair trial, and it
2 may lead to an expeditious one.

3 MR. WARREN: Your Honor, I am perfectly
4 agreeable so far as I am concerned, and I will take
5 it up with American counsel to attempt to enter into
6 stipulations of fact regarding these, which I think
7 is perfectly proper in cases of this kind.

8 MR. TAVENNER: The prosecution will be glad
9 to cooperate to that end.

10 THE PRESIDENT: You have admitted and you
11 have never contested all the evidence we have heard
12 in the last day or two. As I am reminded, the prosecu-
13 tion put in these things.

14 MR. WARREN: At this time we offer defense
15 document No. 219. This is the Convention for Lease
16 of the Laiotung Peninsula between Russia and China,
17 signed at Peking on March 27, 1898. This convention
18 specifically points out that Russia obtained the
19 lease for the purpose of constructing a naval base
20 there and thus creating a great menace towards Japan.

21 We do not desire to read it.

22 MR. TAVENNER: We desire to make the same
23 objections to this document as to the former two. It
24 is dealt with on page 33 of the Lytton Report, and
25 the rights of Japan were acquired under the Portsmouth

1 Treaty in regard to the matters mentioned in this
2 earlier document.

3 MR. WARREN: Your Honor, the mere fact that a
4 document is mentioned in the Lytton Report does not
5 mean that it conveys the true picture of the instru-
6 ment, itself. At the best, it is but an interpretation
7 of the commission, itself.

8 THE PRESIDENT: Well, there is no need to
9 read it, in any event.

10 MR. WARREN: That is right, sir.

11 THE PRESIDENT: Oh, it is repetitive. We will
12 reject it. Objection upheld.

13 MR. WARREN: At this time we should like to
14 call as a witness, YAMAGUCHI, who is now in the witness
15 room.

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YAMAGUCHI

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1 J U I C H I Y A M A G U C H I, called as a
2 witness on behalf of the defense, being
3 first duly sworn, testified through
4 Japanese interpreters as follows:

5 THE PRESIDENT: Will counsel announce
6 his name, please?

7 MR. OHARA: My name is OHARA, counselor
8 OHARA.

9 THE PRESIDENT: Counselor OHARA.

10 DIRECT EXAMINATION

11 BY MR. OHARA:

12 Q Please state your name, Mr. Witness?

13 MR. TAVENNER: May we have a statement
14 as to the accused represented by this counsel?

15 THE PRESIDENT: I take it there will be
16 quite a number. This is a phase, of course.
17 You do not really want him to tell you all those
18 interested in the phase -- no.

19 MR. TAVENNER: I withdraw the question.

20 THE PRESIDENT: Mr. OHARA.

21 A My name is Juichi YAMAGUCHI.

22 MR. OHARA: If the Court please, transla-
23 tion of what I have said was not distinct.

24 My name is OHARA, representing OKAWA,
25 Shumie, the indicted.

YAMAGUCHI

DIRECT

1 Q Mr. Witness, please state your address
2 to the Court?

3 A My address is Chiba Prefecture, Chimata
4 Gun, Iwatamura, Shimonitta.

5 Q How old, what is your age?

6 A I am fifty-six year.

7 Q Please state the outline, briefly your
8 life history.

9 A In 1919, December, I moved to Manchuria.
10 From February 20 to July 1932 I was an employee
11 of the South Manchurian Railway, and my duties
12 were principally in charge of maintenance. My
13 principal duties were related to railroad facili-
14 ties in the port. From 1929 to 1932 I was con-
15 nected with the Youth Federation of Manchuria
16 and its inauguration and management. From
17 October 31 I participated in the movement for
18 the establishment of Manchukuo. From March 1932
19 I was secretary of the Mukden-Haicheng Railway in
20 charge of port facilities and also of the commu-
21 nications division. I was a member of the Re-
22 construction Committee of the Tsitsihar-Koshanchen
23 Railway. The above positions that I held, I was
24 ordered to assume these duties by the Manchurian
25 authorities, principally to organize and unite

YAMAGUCHI

DIRECT

1 the railways. From March 1932 to September 1934
2 I was connected with the Manchurian Concordia
3 Society, engaged in its organization and estab-
4 lishment. In September 1937 I was appointed an
5 official of the Manchukuo Government. Until
6 September 1938 I served as a consular of the
7 Mukden Government and Vice-Governor of the
8 Mutankiang province. Since September of 1938 I
9 was released from official duties and engaged in
10 agriculture near Mukden. At the same time I
11 served as an inspector of the Manchurian Forestry
12 Company. In May 1945 I returned to Japan on
13 duties of the company, and while in Japan the
14 war ended. Since then I returned to my native
15 province in Japan and engaged in farming.

16 Q Mr. Witness, in 1919 when you moved to
17 Manchukuo and were employed by the South Manchurian
18 Company were you not engaged in the business of
19 the principal office of the said railway, main
20 office?

21 A Until 1926 I was principally engaged in
22 work with port facilities.

23 Q What were the economic conditions in
24 Manchuria when the witness moved to Manchukuo --
25 Manchuria?

YAMAGUCHI

DIRECT

1 A From the time I entered the South
2 Manchuria Company in 1919 I was stationed at
3 the port station in Dairen -- in 1920 -- cor-
4 rection. At that time it was just following
5 the first World War, and the various enter-
6 prises were expanding and were enjoying con-
7 siderable prosperity in Manchuria, not only
8 among the Japanese but among the Manchurians
9 as well. What chiefly impressed me as a new
10 arrival from Japan was the large number of
11 ships which were running between North China
12 and Manchuria, that is the ports of Chefoo and
13 Tientsin in China. Each of these ships were
14 loaded with immigrants, new arrivals, coming to
15 Manchuria. In small boats some one to two
16 thousand passengers were taken aboard. Not
17 only were these passengers sprawled all over the
18 deck; they even occupied the lifeboats on the
19 deck. These passengers, all of them, were not
20 only laborers, but a large number of them were
21 men, women and children. They were all very
22 poor. The passage, boat passage at that time
23 amounted to about fifty cen per person from
24 Chefoo. When these passengers arrived at
25 Dairen they were without money, naturally.

YAMAGUCHI

DIRECT

1 When I asked them where they were bound for
2 they usually replied that they were seeking
3 their friends and relatives from their native
4 province in China whom they had heard had
5 prospered as farmers in the interior regions
6 of Manchuria.

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THE PRESIDENT: What is the point of all this?

MR. OHARA: The Chinese who were residing in Manchuria at the time of the establishment of Manchukuo moved to Manchuria in seeking the peace in the region.

THE PRESIDENT: That is set out as fully as you need it set out in the Lytton Report.

MR. OHARA: I am putting these questions to the witness in the belief that at the time of the establishment of the Manchukuo -- after the establishment of Manchukuo later economic conditions of the region became worse and the adverse influences were felt by both the Chinese and the Manchurians. However, originally that region was peaceful and in order to bring out that point I am putting these questions to the witness. Am I permitted to continue?

THE PRESIDENT: I do not think you should be allowed to continue really. This is immaterial. That is my view.

Q Then, Mr. Witness, will you tell to the Court the conditions of the Chinese who immigrated into Manchuria as you have seen their conditions--as you have seen in relation to your business.

THE PRESIDENT: The condition of the Chinese in Manchuria can be no justification for anything alleged against the accused here.

YAMAGUCHI

DIRECT

1 MR. OHARA: I understand the point fully,
2 your Honor; however, it is my belief it is quite
3 material that the Chinese who immigrated into Man-
4 churia in seeking peace suffered terribly at the
5 hands of the Mukden military clique represented by
6 the Chang family.

7 THE PRESIDENT: How does that justify any-
8 thing the Japanese did? The Japanese were never the
9 guardians of the Chinese in China.

10 MR. OHARA: It is my belief as defense
11 counsel and it is my desire to prove that the Chinese
12 who immigrated into Manchuria in seeking peace
13 started an independent movement not instigated by
14 the Japanese or not required by force by the Japan-
15 ese but with the hope of establishing a peaceful
16 region against the oppressive rule of the Chang family.

17 THE PRESIDENT: That is too remote. We will
18 shorten the argument. That is the decision.

19 Q Mr. Witness, are you aware that great changes
20 have occurred in Manchuria after 1920?

21 THE PRESIDENT: That is too remote. Of course,
22 quite a lot of what we read yesterday was too remote
23 actually, but the Lytton Report was tendered by the
24 prosecution and the defense exercised their right to
25 read what they thought was relevant and material but

YAMAGUCHI

DIRECT

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23 actually, but the Lytton Report was tendered by the
24 prosecution and the defense exercised their right to
25 read what they thought was relevant and material but

YAMAGUCHI

DIRECT

1 this is another matter.

2 MR. OHARA: I am aware of that, if the
3 Court please; however, there are facts which the
4 Lytton Report did not cover and there are some facts
5 concerning which the report caused misunderstanding
6 on account of the shortage of materials the Commission
7 treated.

8 THE PRESIDENT: If the Lytton Report is not
9 up to standard this man cannot rectify the position.
10 He is not qualified to do it. You are wasting our
11 time with a lot of remote and immaterial evidence and
12 we resent it.

13 MR. OHARA: I also am aware -- I also am
14 afraid to waste the Court's time, your Honor; however,
15 I fear that the Lytton Report did not cover -- that
16 Lord Lytton did not know, could not learn the feeling
17 of the Japanese and the Manchurians in the lowest
18 social stratum. I have due respect toward the Lytton
19 Report; however, I am aware also that the Report has
20 been completed in the very short period. Because of
21 that, with the desire to tender other materials,
22 additional materials than the Lytton Report, with that
23 desire I have started to question the present witness,
24 so that not only the Lytton Report but also the other
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YAMAGUCHI

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1 materials should be assistance to the Court in making
2 its decision.

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1 THE PRESIDENT: The evidence you are offering
2 is of no value. It has no probative value. Can
3 you understand that?

4 (Whereupon, Mr. OHARA addressed the
5 interpreter in Japanese.)

6 THE PRESIDENT: There is no English trans-
7 lation of what he said.

8 THE INTERPRETER: The counsellor said --
9 well, he asked whether what your Honor ruled concerned
10 the documents or the testimony.

11 THE PRESIDENT: I am telling you this
12 evidence is of no assistance to us and we do not want
13 you to continue to question the witness about these
14 particular matters.

15 MR. OHARA: I understand, your Honor.

16 Q In 1929 -- did you know that in 1929 Chang
17 Tso-lin compelled the Manchurian people to change
18 their national flag?

19 MR. TAVENNER: Your Honor, I think the
20 question is certainly irrelevant. It asked if
21 the character of the money was changed in 1929 in
22 Manchuria. It could have no relevancy to any issue
23 involved here.

24 I was mistaken as to the question, as to
25 what it related to, but its relation to the national

1 flag could have no more materiality than what I
2 had though he said in the beginning.

3 THE PRESIDENT: I did not hear the question.
4 I was reading a note from a colleague who thinks
5 that he ought to be allowed to continue his examina-
6 tion, the examination I stopped, and that he should
7 be allowed to do so because he is trying to show the
8 Manchurians had a desire for independence.

9 Well, I have to deal with this last question.
10 Will the court reporter repeat it, please?

11 (Whereupon, the last question was read
12 by the official court reporter as follows:)

13 "Q Did you know that in 1929 Chang Tso-lin
14 compelled the Manchurian people to change their
15 national flag?"

16 THE PRESIDENT: What is the relevance of
17 that?

18 MR. OHARA: Simultaneously changing the
19 national flag the Mukden Government changed its
20 pro-Japanese policy to anti-Japanese policy. As a
21 result of this changed front the pressure has been
22 brought to bear upon the Japanese residents and
23 frictions between different nationalities occurred.

24 THE PRESIDENT: Objection upheld.
25

1 BY MR. OHARA (Continued):

2 Q Are you aware beginning 1929 -- around 1929 --
3 revenue of the South Manchurian Railroad drawn from
4 cartage of goods have suddenly decreased?

5 MR. TAVENNER: Your Honor --

6 A I know it very well. It was part of my
7 duties.

8 THE PRESIDENT: I understand that some
9 of my colleagues did not get the answer in English
10 or did not get the question in English.

11 (Whereupon, the official court
12 reporter read the last question.)

13 MR. TAVENNER: Doesn't your Honor think
14 that is entirely irrelevant and immaterial to any
15 issue involved in this case?

16 THE PRESIDENT: What have you to say?

17 MR. OHARA: This sudden decrease in the
18 cargo carried by the Manchurian Railroad is a result
19 of the anti-Japanese policy adopted by the Chang
20 clique.

21 THE PRESIDENT: Objection upheld.
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YAMAGUCHI

DIRECT

1 Q What treatments were accorded to Japanese
2 and the Koreans residing outside the railroad zone
3 at that time?

4 MR. TAVENNER: We object, your Honor, on
5 the same ground, that the treatment couldn't have
6 any material bearing on the issues involved in this
7 case.

8 THE PRESIDENT: A nation may go to the res-
9 cue of its nationals in a foreign country. It
10 certainly is not the orthodox thing to invade a
11 foreign country immediately. You generally make
12 representations to the foreign government. But the
13 question is not what was happening to those particu-
14 lar nationalities but why the Japanese invaded
15 Manchuria. This is the first time that particular
16 cause about to be brought out has been assigned by
17 the defense or anybody else.

18 The question is admitted. I understand
19 some of my colleagues went to hear it. Objection
20 overruled.

21 A At that time there were many Koreans en-
22 gaged in agriculture outside of the railway zone,
23 and there were many Japanese living outside of the
24 zone who were engaged in forestry and mining.
25

YAMAGUCHI

DIRECT

1 However, before this there were some problems which
2 were yet to be settled, such as, for instance, the
3 question of land leases.

4 Prior to 1928, under the appointment of the
5 Northeastern Government and welcomed by the native
6 Chinese, considerable enterprises were jointly
7 operated. However, in 1930 the Northeastern Govern-
8 ment promulgated a domestic law to regain national
9 land. The policy was that any persons willing
10 land or houses to Japanese or Koreans or selling
11 forest land to such nationals would be punished
12 by death. Correction: leasing of land and houses
13 and sales of forest land.

14 THE PRESIDENT: Is that red light meant
15 to be there?

16 THE MONITOR: Yes, your Honor.

17 MR. TAVENNER: If your Honor please,
18 this is all matter which appears at greath length
19 in the Lytton Report. This is merely a rehash of
20 it and is repetitive, and we think is objectionable
21 for that additional reason.

22 THE PRESIDENT: Yes, it is all in the
23 Lytton Report.

24 We will recess for fifteen minutes.
25

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1 (Whereupon, at 1047 a recess was
2 taken until 100, after which the proceedings
3 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. OHARA, yesterday
4 Mr. Warren told us that it was desired to supplement
5 the findings of the Lytton Report in certain particu-
6 lars. Are you endeavoring to do that now?

7 MR. OHARA: It is my desire, your Honor --
8 I am trying, your Honor, to avoid as much as possible
9 the repetition with the Lytton Report and trying to
10 render -- make some assistance -- render some assistance
11 by way of supplementary questions so that I can render
12 some assistance to the Court.

13 THE PRESIDENT: If you told me you were
14 trying to clarify or supplement the Lytton Report
15 my answer would be that you are only confirming it.
16 Please point out in the Lytton Report the finding
17 which this evidence offered this morning supplements
18 or clarifies.

19 MR. OHARA: To speak the truth, I am just
20 laying a foundation for my principal question to be
21 put to the witness. If the Court should allow me
22 some indulgence I will do so to the satisfaction of
23 the Court. What I have asked questions to the witness
24 involved -- includes partly what the Lytton Report
25 set forth. However, I wanted to make clear under

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1 such circumstances who made certain activities -- who
2 made such activities under what conditions.

3 THE MONITOR: Who did what under such
4 circumstances.

5 THE PRESIDENT: I think we might well ask
6 this witness to return to the witness room while you
7 tell us just what evidence he is going to give.

8 MR. OHARA: If it please the Court, I should
9 like to ask questions -- but questions to the witness
10 to bring out what sort of work he did after the
11 initiation of the Mukden Incident. I will reframe
12 my questions and ask the witness questions which
13 might bring out what the Lytton Report failed to
14 cover so that I may be able to render some assistance
15 to the Court.

16 THE PRESIDENT: As you do, point out the
17 provision or the statement in the Lytton Report
18 which needs supplementing or clarifying. Now, what
19 page of the Lytton Report?

20 MR. OHARA: I haven't the Lytton Report
21 before me and I should like to report to your Honor
22 during the afternoon session.

23 THE PRESIDENT: Let the witness stand down
24 until you can examine him efficiently.

25 MR. OHARA: I should like to gain the

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1 testimony from the present witness as to the independence
2 movement after September 18th. I should like to have
3 the permission granted by the Court to ask other ques-
4 tions to this witness. These questions would supple-
5 ment what the Lytton Report doesn't cover.

6 BY MR. OHARA (Continued)

7 Q Mr. Witness, where were you residing at the
8 time of the outbreak of the Mukden Incident?

9 A I was at my home in Darien.

10 Q Through what channel or by what method did
11 you learn of the incident, Mukden Incident? When?

12 A I became informed of the fact that the Incident
13 had occurred on the morning of September 18 through
14 the extras of the Darien newspapers.

15 Q What step did you take, Mr. Witness, as a
16 member of the South Manchuria Railway?

17 A I was greatly surprised to learn that the
18 Incident had broken out by looking at the extra editions
19 of the newspapers. I, therefore, immediately went to
20 my office. I investigated the various railway tele-
21 graphic reports from the outlying district.

22 Q What step did you take, Mr. Witness, on the
23 29th of the same month?

24 A I was active following the incident as a
25 member of the East Asia Federation.

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Q What is that association?

A I was mistaken; it isn't the East Asia Federation. What I meant to say was the Youth Federation of Manchuria. Previously I was requested to report to Mukden by cable from officers of this youth federation. I went to Mukden after receiving the permission of the South Manchuria Railway Company.

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1 Q What did you do after that?

2 A When I arrived in Mukden I was met at the
3 station by Keiichi KOYAMA, who explained to me at the
4 station the purport of what had occurred and the business
5 to be accomplished.

6 Following the outbreak of the Incident, the
7 conditions of security and order in Mukden had completely
8 come to a stop. The officials in Mukden were making all
9 attempts to restore peace and order within the city.
10 However, at the time, the Mukden-Haicheng Railway was
11 not in operation and they were encountering many difficulties
12 in order to supply food to the city. The Manchurian
13 authorities encountered numerous difficulties in
14 supplying food for the city due to the stoppage of the
15 Mukden-Haicheng Railway.

16 MR. OHARA: Your Honor, this point is set forth
17 in the Lytton Report. However, it is described very
18 briefly, so, by way of supplement, I should like to get
19 the answers -- I should like to put the questions to the
20 witness.

21 THE PRESIDENT: Proceed.

22 A (Continuing) Then I was told that since I was
23 connected with the railway enterprise what methods I
24 would suggest, if I had any, to restore this railway into
25 operation.

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1 Q What railroad do you mean? Is that railroad
2 an important line?

3 A This railway is the route for the supply of food
4 into Mukden. It was very vital that the operation be
5 continued without any interruption. I replied that
6 since this railway was originally jointly operated
7 with the Chinese, the critical situation which was
8 existing should not be -- attempts should not be made
9 to solve this critical situation only through the efforts
10 of the South Manchurian Railway or of the municipal
11 government. This railroad was a question of dispute
12 between China and Japan, therefore, I said that the
13 critical situation existing should not be solved by the
14 South Manchurian Railway alone, or by the Mukden Municipal
15 Government. This railway was operated as a corporation
16 because one of the directors of the railway had fled when
17 the Incident had arisen, that is, when the stoppage had
18 arisen.

19
20 The company had, of course, many stockholders
21 and a large number of employees. It also employed a
22 number of railway guards.--

23 MR. TAVENNER: If your Honor please, there is
24 no issue involved --

25 THE INTERPRETER: The railway company had many
stockholders and a large number of employees. It also

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1 employed a number of railway guards, a fact which was
2 peculiar to the conditions in Manchuria.

3 MR. TAVENNER: There is no issue involved
4 in anything the witness has testified to for quite some
5 time. These details are immaterial and we think an
6 objection should be made to them.

7 THE PRESIDENT: Mr. OHARA.

8 MR. OHARA: It is my intention to let this
9 witness elucidate on how the Manchurian Independence
10 Movement has developed through what has happened to this
11 particular railroad. It is my belief as witness proceeds
12 to testify this point will be made clear.

13 THE PRESIDENT: Objection overruled. Proceed
14 to ask him questions.

15 We may have to adopt entirely new procedure
16 here, one that is not adopted even in civil proceedings
17 in courts, but which is confined to civil proceedings
18 in chambers: Trial on affidavit which will be served
19 in advance.

20 MR. OHARA: If your Honor please, we have taken
21 the affidavit of this witness. However, the said affidav-
22 it included a great deal of opinion by the witness.
23 After spending quite a long time in readjusting his
24 affidavit I have come to the conclusion it was better to
25 direct examine the witness in the court.

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1 THE PRESIDENT: We have been giving you the
2 right to give evidence by affidavit. We may have to
3 compel you to give evidence that way; that is the point.
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1 Q Mr. Witness, will you continue your answer?

2 A I offered the opinion, therefore, that the
3 three groups, that is, the stockholders, employees,
4 and the railway guards, should jointly run and
5 operate the railway autonomously. Then I accompanied
6 KŌYAMA, Keiichi to the offices of the municipal
7 government. The mayor at that time was Colonel
8 DOHIHARA. I stated my views to the mayor. Then I
9 proceeded to the headquarters of the Kwantung Army
10 and there met Colonel ITAGAKI, who was then the
11 senior staff officer. I stressed the point that the
12 restoration of the railway should be accomplished
13 not by the South Manchuria Railway, but by the -- I
14 emphasized that neither Manchuria or China -- Japan
15 should interfere in the attempts to restore the
16 railway, but that it should be -- the work should
17 be done autonomously.

18
19 Colonel ITAGAKI said that he had no objec-
20 tions whatever to an autonomous operation of the
21 railway by the Manchurians and I received his approval
22 -- consent to my view. Therefore, through such pro-
23 cedures my opinion came to be adopted by Mayor
24 DOHIHARA. Mayor DOHIHARA therefore entrusted this
25 task to a committee for the maintenance of peace
and order. It seemed that Mayor DOHIHARA entrusted

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1 the task to a committee for the restoration of
2 peace and order.

3 I was introduced by Colonel DOHIHARA to two
4 members of the committee, Chao Shin Po and Ting
5 Chin Shin. Because of the fact that both of these
6 Chinese persons were fluent speaking, understood
7 Japanese fluently, I explained my views to them in
8 detail.

9 The summoning of representatives of the
10 stockholders and notification to the members -- to
11 the employees, were entrusted to these two persons.
12 And on the second of October a committee was formed
13 for the preservation of order on the Mukden Hai-
14 cheng Railway.

15 At this time I was asked by Ting Chin Shin
16 to become his secretary in view of the fact that I
17 was the first person who had made any expressions
18 of opinions and also because of the fact that I was
19 an expert on railways. From such relations I was
20 able to know the plans for the restoration of the
21 railway in question. Therefore, first of all, in
22 the name of Ting Chin Shin, as chairman of this
23 committee, I informed all employees of the railway
24 that a railway is a public enterprise and that a
25 stoppage of its operations should not be allowed

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1 because it would have unfavorable effects on society
2 in general.

3 THE PRESIDENT: We must place a limit on
4 all this discursive matter. If we have to resort to
5 compulsory affidavits it means this, that we will
6 have to decide among ourselves, without hearing
7 argument, whether evidence should be admitted or
8 rejected. Counsel would not like that, but what
9 other course is open to us in view of what has
10 happened this morning?

11 MR. OHARA: It is customary for the Japanese
12 witnesses to give long drawn out answers. If your
13 Honor should give direction to the witnesses to make
14 their answers brief that will be of great assistance.

15 THE PRESIDENT: They will have to change
16 that custom.

17 Q Please give quickly and a brief answer to
18 that question just now put.

19 A Very well, I shall just explain in outline.
20 Within five days all employees registered their
21 approval and consent for the plan and the stockholders
22 also participated.

23 THE PRESIDENT: Just consider the multiplicity
24 of charges and issues in this case, and then consider
25 the time we are wasting on this type of thing.

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1 Surely Japanese counsel can appreciate that.

2 MR. OHARA: I will change my question.

3 Q Mr. Witness, did you associate with one Mr.
4 Yuan Chen-to at that time?

5 A I learned of this person, Yuan Chen-to,
6 from a friend of mine while I was hospitalized. I
7 understand he was the chief -- the head of a hos-
8 pital in Kirin, and a friend of mine, ISHIKAWA, told
9 me that this person was a chief of a hospital in
10 Kirin and had been very concerned about the establish-
11 ment of Manchukuo. Correction: I did not know
12 Yuan Chen-to previously, but while in a hospital a
13 member of my same company, ISHIKAWA, told me that he
14 was the chief of a hospital in Kirin who was quite
15 concerned over the outbreak of the incident and
16 expressed a desire to participate in the movement
17 for the establishment of Manchukuo.
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1 Q What contribution did he make to the move-
2 ment?

3 A I introduced him to KANAI, Shoji who was an
4 adviser to the Provincial Government of Mukden. As
5 chief of the Secretariat of the Provincial Government,
6 he assisted Tsang Shih-i in making plans for the
7 independence movement. He was attacked by guerrillas
8 in mufti, and bombs were thrown into his home; but,
9 without changing his determination, he continued his
10 work.

11 Q Did he ever tell the witness why he partici-
12 pated in this movement?

13 A Since then I became quite familiar with this
14 person and heard many of his views. To release the
15 thirty million peoples of Manchuria from the oppres-
16 sive rule of the military chieftains and, in order to
17 establish a democratic nation, it was very necessary
18 at this time to create an independent nation. He
19 always -- he repeatedly stated these views.
20

21 Q Did he ever tell you why it was necessary to
22 save the thirty millions -- thirty million peoples
23 of Manchuria?

24 A Naturally, he informed us of details which
25 we did not know concretely.

Q If it is at all possible, will you, Mr.

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1 Witness, narrate why Mr. Yuan Chen-to initiated --
2 why he came to be interested in this independence
3 movement?

4 A He said that originally Manchuria was a
5 country which had limitless natural resources. Be-
6 cause of this fact he said that, if peace could be
7 maintained and industries begun, Manchuria could do
8 well to take after the example of the United States
9 as an industrial nation. But the military chiefs who
10 ruled the Northeastern regime felt that, with the
11 small number of thirty millions, they would desire
12 to continue a struggle with China lasting for a
13 length of years. Therefore, in order to raise funds
14 for their military campaigns they overtaxed the
15 people and exploited them; and, in order to gain
16 manpower for their army, they forcefully drafted the
17 people, resulting in no freedom among the people.

18 In accordance with the policy advocated by
19 the civilian group to restore land and to bring
20 stability to the people, and since the military re-
21 gime of the Northeastern Government had fallen, the
22 people should, under the leadership of pioneers,
23 seek the establishment of a democratic country and,
24 therefore, to escape from the evils of the former
25 regime. And he always said that, regardless of what

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1 names he was called, whether he was accused of being
2 a traitor, he would continue his work because of this
3 belief, to save the thirty millions of Manchuria.

4 Q Before the outbreak of the Mukden Incident
5 was there that civil faction the witness has just
6 mentioned?

7 A Yes.

8 Q What kind of faction is it?

9 A This faction was organized in 1926 under
10 Wang Yung-chieng and was the so-called civilian fac-
11 tion in contrast to the military faction.

12 Q Mr. Witness, can you enumerate the names of
13 the persons who belonged to the civil faction?

14 A I am able to name those with whom I had
15 association.

16 Q Please do so.

17 A Yes. For instance, Yu Chung-han.

18 Q What kind of position did he occupy at that
19 time?

20 A He was at one time a custodian for Chang
21 Tso-lin. When I first met this person, he was the
22 general manager of the steel mines at Anshan -- iron
23 mines at Anshan.

24 Q What position did he assume later?

25 A In spite of the fact that he was a sick

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1 person, he assumed the task of guiding the movement
2 for autonomy following the outbreak of the independ-
3 ence movement.

4 THE MONITOR: Mr. President, we are asking
5 the Chinese person's character in order to translate
6 it into English, sir.

7 A The next person was Yu Cheng-yuan, his son.

8 THE PRESIDENT: Is there any limit to this
9 litany?

10 MR. OHARA: It was my intention, your
11 Honor, to have the witness name persons of more
12 important calibre. It was my belief, your Honor,
13 that that would elucidate the foundation of the
14 independence movement.

15 THE PRESIDENT: Your attitude, Mr. Tavenner,
16 appears to be one of despair. Obviously, this mater-
17 ial has no probative value and hasn't had for the
18 last half hour.

19 We will recess until half-past one.

20 (Whereupon, at 1200, a recess was
21 taken.)
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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to
4 recess, at 1330.

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6 J U I C H I Y A M A G U C H I, called as a
7 witness on behalf of the defense, resumed
8 the stand and testified through Japanese
9 interpreters as follows:

10 DIRECT EXAMINATION

11 BY MR. OHARA (Continued):

12 Q Mr. Witness, before the recess you were
13 referring to the civil faction. About when was this
14 faction formed, and who were its leaders?15 A The civil faction was not exactly an
16 organized party. It was organized against the mili-
17 tary government by organizing the civil political
18 leaders.19 Q Have you ever been informed by somebody
20 as to the platform of this civil faction?21 MR. TAVENNER: If your Honor please, I
22 think the question as to whether he had been informed
23 by someone not named as to the platform of a political
24 party could not have any bearing and could not be
25 material.

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1 THE PRESIDENT: He should name and describe
2 his informant. He may do so.

3 MR. TAVENNER: And we desire the objection
4 to go further, to go also to the subject matter of
5 the inquiry.

6 THE PRESIDENT: Oh, we will hear him on the
7 societies and their objectives and their operations.
8 Objection overruled.

9 Q Will you proceed, Mr. Witness?

10 A As I mentioned before, I was associated with
11 Yu Chung-han, Yu Chih-shan and Han Yun-chieh, as well
12 as Chao Hsin-po.

13 THE MONITOR: These are all members of the
14 so-called civilian faction or civil faction.

15 A (Continuing) These people that I just
16 mentioned always told me that they advocated that war-
17 fare be stopped, that both China and Japan institute
18 a rational cooperation between the two nations, that
19 they would seek to develop the resources of Manchuria
20 and that all peoples residing therein would be enabled
21 to enjoy the prosperity.

22 THE MONITOR: Slight Correction in regard to
23 Japan and China: Both with Japan and China they, the
24 Manchurians, should maintain equally the cooperative
25 relations.

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1 A (Continuing) I wish to add that as to their
2 political desires, they advocated what we would call
3 democracy.

4 Q Who among the leaders of the civil faction
5 was considered the highest at that time?

6 A The leader was Wang Yung-Chiang.

7 Q Mr. Witness, were you ever informed of
8 Mr. Wang's life history?

9 A In Manchuria he was known as a very influential
10 political leader.

11 Q What activities did Mr. Wang perform?

12 A In 1920, Mr. Wang was a custodian of the
13 Chang Tso-lin Government. Later he served as police
14 superintendent and as head of the Finance Bureau.
15 As I recall, at the time that he retired from activity
16 in 1929, he was acting governor of the province --
17 correction: In 1928, when he retired from activity.

18 The people of Manchuria looked up to Mr. Wang
19 as a leader, as a kingly political leader.

20 THE MONITOR: Slight correction: He was
21 looked up to as the modern Wangtao political leader.

22 A Chang Tso-lin regarded Wang very highly
23 because of his ability in financial affairs, enabling
24 Chang Tso-lin to maintain his military forces.

25 Q Up to 1928 I understand Mr. Wang was a civil

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1 official. What kind of activity was he in after 1928?

2 A Wang Yung-chiang, after that time, urged
3 Chang Tso-lin to stop the war and to adopt a policy
4 of maintaining the borders of the nation and to bring
5 stability to the people. However, his suggestions
6 were not adopted by Chang Tso-lin; therefore, he stated
7 that he could not participate any longer in political
8 affairs. He issued a very important statement and
9 then retired to his home in Chinchou.

10 Q Mr. Witness, how did you come to know about
11 this statement by Mr. Wang?

12 A This statement was well known in political
13 circles at that time, and I came to know of it by
14 documents and by talks through his -- Mr. Wang's --
15 son, whom I knew very well.
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1 Q Now, Mr. Witness, have you learned about the
2 interpretation of this socalled "conserve the border
3 and bring stability to the people" as quoted in the
4 statement?

5 THE MONITOR: "Safeguard the border and
6 bring stability to the peoples."

7 Q Yes. From whom did you hear about this?

8 A I saw it in documents which were officially
9 announced and revealed to the public.

10 Q Have you ever heard of the meaning -- signi-
11 ficance of this term "safeguard the border and bring
12 stability to the people" from any members of this
13 socalled civil faction?

14 A Yes. I heard it on several occasions from
15 the people that I mentioned previously.

16 Q Do you know anything about Mr. Han Yun-chieh
17 who is a member of this so-called civil faction?

18 A Yes, I am informed very well.

19 Q What kind of activity was he in, or what did
20 he accomplish in his career?

21 A In 1932 he served as the governor of the
22 Province of Heilungkiang.

23 THE MONITOR: Correction: Acting governor of
24 Heilungkiang Province.

25 A (Continuing) At that time I was stationed in

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1 Tsitsihar as a member of the committee for the relief
2 of flood sufferers.

3 THE MONITOR: Of the Concordia Society.

4 A (Continuing) In view of the nature of my
5 work I always cooperated with Mr. Han. Since then I
6 have been a friend of his until the present time.

7 Q Did Mr. Han Yun-chieh have any connection
8 with Ma Chan-shan?

9 A I heard both directly and indirectly from
10 other people that Ma Chan-shan was urged to join the
11 movement for -- join the Manchukuo Government from
12 Han Yun-chieh.

13 THE MONITOR: Slight modification: I heard
14 directly from Mr. Han himself, and also indirectly
15 from other people that he was instrumental in bringing
16 about a general march to join in Manchukuo, and thereby
17 stop the warfare.

18 A (Continuing) In this connection he devoted
19 brave efforts.

20 If time permits I would like to explain this
21 example.

22 THE MONITOR: Brave effort even at the risk of
23 his life.

24 Q Please narrate it.

25 A I will state it briefly. Ma Chan-shan was

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1 in the battle near Ta shing, was defending Tsitsihar,
2 but was forced to retire towards Hailun. At that
3 time Ma Chan-shan and Chang Chin-hui were advocated
4 as the provincial governor of Heilungkiang Province.

5 THE MONITOR: And in the meantime Mr. Han
6 took over the job as acting governor.

7 A (Continuing) In the meantime a cavalry
8 regiment under Wu Sung-lin, who was one of the sub-
9 ordinates of Ma Chan-shan, knowing of the lack of
10 Japanese troops defending Tsitsihar, planned to
11 recapture that city, and had already begun their
12 southward movements. Correction: Cavalry brigade.

13 THE MONITOR: Slight correction: Knowing
14 of the lack of strength on the part of the Japanese
15 forces there.

16 A (Continuing) Learning of this Han Yun-chieh
17 escaped from Tsitsihar and proceeded to Hailun. And
18 Mr. Han when in Hailun met Ma Chan-shan and told
19 Ma Chan-shan that "You have said that it was your
20 desire to save the people by waging war --- by stopping
21 war, yet I understand that your troops have begun action
22 in Tsitsihar." I asked him whether it was his orders
23 to do so. And I told Ma Chan-shen -- he, Han, informed
24 Ma Chan-shen of the crime of waging warfare.

25 THE MONITOR: At the end of the previous answer,

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1 previous statement from the witness, "I told him"
2 should be corrected to read "He told General Ma."

3 A (Continuing) Ma Chan-shen replied that he
4 was not informed. Han received the assurance of Ma
5 Chan-shan that Ma had no intention of waging warfare,
6 that he had issued no orders to his troops to conduct
7 warfare, and that he was not aware that action was
8 taking place. If this was true he would put a stop
9 to it immediately.

10 Han, hearing of this, was overjoyed, and left
11 Ma Chan-shan's room to another room where he met a
12 friend of his who was the district chief of Paichuan.
13 This friend told Han that not to leave the room right
14 away for he had heard while Han was in the general's
15 room several young officers speaking of Han, accusing
16 him of putting ideas into the head of their commander,
17 and that they were determined to shoot him that night.
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1 A (Continuing): Han was informed by this
2 friend that he had overheard that preparations had
3 been made to station a machine gun unit in the open
4 space near the station of Hailun with the inten-
5 tion of shooting and killing Han, and therefore
6 urging him not to leave. Therefore, the district
7 chief of Paichuan entered the room of Ma Chan-shan
8 and explained the situation that he had overheard.
9 General Ma was greatly angered upon hearing this.
10 General Ma immediately summoned these officers who
11 had been planning this shooting, and in addition to
12 them assigned his own private staff officers to es-
13 cort Han Yun-chieh to Harbin -- immediately General
14 Ma summoned one of these officers who had been
15 planning to shoot Han, and in addition to this offi-
16 cer attached one of his own private staff officers
17 to escort Han to Harbin.

18 THE MONITOR: "Trusted" instead of "private."

19 And Han further said that en route troops
20 with machine guns approached them but the officers
21 who accompanied him stopped them from doing anything.

22 Q Mr. Witness, do you know any other persons
23 belonging to the civil faction who participated in
24 the independence movement?

25 THE MONITOR: Are there many of them? You
don't need to mention names.

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1 A Near Mukden the persons who participated
2 in the movement were practically all members of the
3 so-called civil faction. I should like to add a few
4 words. Civil factions were active mostly near Mukden.
5 Some of the activity also took place in the province
6 of Kirin also by the Tsuang-she tang Party and
7 Manchurian banner troops. Correction. In addition,
8 too, Mukden activities also took place in Kirin
9 under the Tsuang-she-tang party, and also the move-
10 ment was carried on by one of the native Manchurian
11 tribes -- members of the so-called Manchurian tribe.

12 Q Were you ever informed of the independence
13 movement participated in by the Manchurian tribe in
14 Kirin?

15 A Because this native Manchurian group had
16 participated in the movement together with the so-
17 called Kirin group, I was informed of the matter.

18 THE MONITOR: Because I once worked with
19 these members of the so-called Kirin faction in
20 regard to the independence movement, I know of the
21 situation.

22 Q What did these men belonging to the Kirin
23 faction tell you concerning their desire -- aspira-
24 tions?

25 A The opinions that I heard directly were

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DIRECT

1 that they advocated the independence of Manchuria
2 with Pu-Yi as the Emperor as a restoration of the
3 old Chin Dynasty. At the time of the independence
4 movement there existed a very delicate opposition
5 of views, and the civil faction of Mukden advocated
6 the establishment of a democratic country or demo-
7 cratic state. And in Kirin and also in Mongolia
8 the civil faction were watching with keen interest
9 the movement to restore imperial rule.

10 THE MONITOR: The members of the civil
11 faction in Mukden watched with keen interest the
12 similar movement to restore the Chin Dynasty which
13 was going on in Kirin and Mongolia. Once, at one
14 time Yuan Chen-to told me about the existence of a
15 secret society called the Mantsu Kongchinhui, which
16 existed in Kirin province, and explained to me his
17 statement.

18 THE MONITOR: He showed me what was sup-
19 posed to be regulations or rules of that society
20 and asked me if I also know of it -- if I knew of
21 the secret society and its regulations.

22 Q What was written in the articles of the
23 regulations? Please state them briefly.

24 A The purport of the regulations was to
25 restore the Chin Dynasty and at the same time to effect

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DIRECT

1 independence of Manchurian tribes and Mongolians
2 from the Han race.

3 Q Was the document -- were the regulations
4 voluminous?

5 A Because it was rules it was very brief.
6 As I recall it, it was composed of about twenty
7 articles.

8 Q Do you remember where the headquarters of
9 this faction was based and who are the members
10 thereof?

11 THE MONITOR: No, who are the members of
12 the cabinet -- who the cabinet officials were?

13 A At that time Yuan Chen-to explained that
14 Hsi-hsia was the prime mover of the movement,
15 although I didn't see the name list myself, but
16 according to the explanation given to me by
17 Mr. Yuan Mr. Hsi-hsia was the central figure of
18 the movement.

19 Q Wasn't it forbidden at that time for any-
20 body, any person like the present witness, to
21 assist this independence movement with work in
22 connection with the members of the faction?

23 A At that time I was a member of the South
24 Manchurian Railway. The company had strict regu-
25 lations prohibiting any employee of the railway

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DIRECT

1 to interfere in the affairs of the Manchurians --

2 THE MONITOR: Prohibited its employees from
3 participating in the incident without specific or-
4 ders from the company, and they were to be severely
5 punished if they violated the rule.

6 And the Kwantung Army had issued a procla-
7 mation under a military order prohibiting strictly
8 any political activities by Japanese.

9
10 But this witness says
11 the military men are in
12 this society in "advisory
13 capacity".
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18 Concordian Society
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1 Q It appears that the witness has established
2 in 1932 the Concordia Society. Will you explain the
3 circumstances of its establishment?

4 A Five months after the incident, that is in
5 March of 1932, a new state was established. Even
6 among the persons who had participated in the movement
7 for the establishment of the nation there were two
8 groups such as the civilian faction of Mukden and the
9 Kirin faction which advocated the restoration of the
10 Chin Dynasty. We were greatly worried over the fact
11 that problems would arise between the various races;
12 for instance, that the Japanese and Koreans consider-
13 ing themselves natives of a victorious nation would
14 act in such a way as to be oppressive to the native
15 Manchurians. Under such conditions we came to the
16 conclusion that unless the movement for independence
17 among the peoples were united -- we came to the conclu-
18 sion that the maintenance of a so-called democratic
19 state was impossible unless we were able to bring
20 together various races in perfect coordination and
21 cooperation so as to conform to the spirit of the
22 foundation of the state. Since October 1931 to the
23 independence of Manchuria I discussed this matter with
24 those persons with whom I worked together; and because
25 so many of the people approved, it was unanimously

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DIRECT

1 decided to form a Concordia Party.

2 THE MONITOR: Concordia Party of Manchuria--
3 Manchukuo.

4 Five persons were appointed to take charge
5 as members of the committee for the establishment of
6 this society, namely: Yuan chen to, Yu cheng-yuan,
7 Mr. Wada Kei, YAMAGUCHI, Juichi, and OZAWA, Kaisaku.
8 I recall that it was about the second of April, 1933,
9 that the officers of this committee -- the former office
10 was established at the former site of Northeastern
11 Communication Commission located on the San Kei Road
12 in Mukden, and an understanding was sought with the
13 government in Shinking and also with the Kwantung Army.
14 The Kwantung Army headquarters did not have any par-
15 ticularly deep views on the subject.
16

17 THE MONITOR: The Kwantung Army headquarters
18 did not express any particular views on the problem.

19 But on the other hand the Shinking government
20 had many complaints to make -- had different views on
21 the subject. In other words, one of the troubles of
22 China now is the existence of both the Kuomintang Party
23 and the Chinese Communist Party. Therefore, they did
24 not wish the establishment of any political party in
25 Manchuria which would cause any trouble. These were
their views opposing the subject. Therefore, we

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1 explained in detail the differences in comparison
2 with the Kuomintang Party and the Communist Party of
3 China and sought their understanding. As a result it
4 was decided that a strictly civilian party would be
5 avoided and that the government would also cooperate
6 and interest the party and make it into a united
7 national party. Thus the understanding was made.
8 Therefore, the name was changed from the Concordia
9 Party to the Manchukuo Concordia Society with members
10 of the government also participating.

11 Q Who opposed the creation of this Concordia
12 Party for the reason that would be similar to Kuomintang
13 Party and Communist Party of China?

14 A The prime movers of this movement were the
15 Kirin group which advocated monarchical rule and
16 Cheng Hsiao Hsu, who became prime minister.

17 Q Please briefly state the platform of the
18 Concordia Society as a political party.

19 A To complete the recovery of the people through
20 adopting the Wangtao policy;

21 THE MONITOR: Slight modification: To estab-
22 lish a nation based on the principle of cooperation
23 among races based upon the Wangtao principle;

24 To promote civil government; to promote the
25 welfare of the people and also to develop industries;

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DIRECT

1 to destroy communism and eliminate monopolization by
2 the capitalists; to seek amicable relations inter-
3 nationally through a policy of the open door -- through
4 a policy of equal opportunity.

5 Q That is all. Witness, it appears you are one
6 of the founders of the Youth League of Manchuria. Are
7 you aware of the fact, Mr. Witness, that this federa-
8 tion or league has published a book entitled, "The
9 Story of the Youth Federation"?

10 A Yes, we published it.

11 MR. CHARA: I conclude my direct examination.
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1 MR. T. OKAMOTO: May I be permitted to call
2 as a witness Mr. KATAKURA? Excuse me; I mistook
3 it.

4 THE PRESIDENT: Any cross-examination?

5 MR. TAVENNER: Your Honor, will you bear
6 with me just a moment until we determine?

7 THE PRESIDENT: Yes.

8 MR. TAVENNER: Your Honor, the prosecution
9 has decided not to cross-examine.

10 THE PRESIDENT: Well, Witness, the Court
11 has a question or two for you. At page 97 of the
12 Lytton Report this appears:

13 THE MONITOR: Mr. President, could you
14 give us a moment to fetch the report for ourselves
15 too?

16 THE PRESIDENT (reading): "It is clear that
17 the independence movement, which had never been
18 heard of in Manchuria before September 1931, was
19 only made possible by the presence of the Japanese
20 troops."

21 What do you say to that?

22 THE WITNESS: I believe that this is a
23 difference of opinion.

24 THE PRESIDENT: Well, this appears at
25 page 93 of the same report:

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1 "After the declaration of independence and
2 the announcement of the plans for the new state,
3 the Self-Government Guiding Board took the leading
4 part in organizing popular manifestations of support.
5 It was instrumental in forming societies for the
6 acceleration of the foundation of the new state.
7 It instructed its branches to do everything possible
8 to strengthen and hasten the independence movement.
9 In consequence, the new acceleration societies sprang
10 up rapidly."

11 Was the Concordia Society one of those
12 acceleration societies?

13 THE WITNESS: No, that is not true.

14 MR. TAVENNER: Your Honor, may I change my
15 mind about cross-examination on several points?

16 THE PRESIDENT: Well, it is for you to
17 decide, but I don't know that you will be able to
18 help very much. You will get the kind of answer
19 the Court got, I suppose.

20 MR. TAVENNER: I believe I will ask only
21 a few questions.
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CROSS-EXAMINATION

1 BY MR. TAVENNER:

2 Q Are you familiar with the book entitled
3 "Manchurian Empire" published on account of the
4 Ten-Year Jubilee by the state organization Kyo-Wa-Kai?

5 A I have not read it.

6 Q That was a jubilee of the organization of
7 which you were at one time an active participant,
8 was it not?

9 A I shall explain my connections with the
10 Concordia Society since that time and seek your
11 understanding of why I cannot answer -- why I am
12 unable to answer your question.

13 Q What I propose to ask you does not relate
14 to things that occurred after the severance of your
15 connection with that group. I refer to prosecution
16 document 2329 in evidence as exhibit 731 which sets
17 forth the purpose of this organization. I am going
18 to read this to you and ask you if this is a correct
19 statement.
20

21 THE MONITOR: Mr. Tavenner, could you
22 indicate what paragraph it is that you are going to
23 read?

24 MR. TAVENNER: Page 2, paragraph 4.

25 THE MONITOR: Just a few moments, please.

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1 All right, sir.

2 Q (Continuing): "The Kyo-Wa-Kai, as is clear
3 from the above stated, has a special mission of
4 great importance to spread the spirit and the
5 ideology of the State not only among the entire
6 population of Manchoukuo but throughout the world.
7 For the purpose of attaining this great aim the Kyo-
8 Wa-Kai must carry on a permanent ideological struggle
9 for the embodiment of its ideal both inside and
10 outside the state. The Kyo-Wa-Kai is the ideological
11 Centre of this struggle...."

12 Is that a correct statement of the aims
13 and objects of that organization?

14 A The book that you referred to, when was it
15 published and what kind of a book was it?

16 Q Regardless of when or where the book was
17 published, is that a correct statement of the views
18 of your society?

19 A I cannot very well agree with it.

20 Q Let me read you another paragraph. I will
21 now read the second paragraph from the top of the
22 same page, page two.

23 THE PRESIDENT: We will recess for fifteen
24 minutes.
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(Whereupon, at 1445, a recess was

1 taken until 1500, after which the proceedings
2 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

CROSS-EXAMINATION

3 BY MR. TAVENNER: (Continued)

4 Q In answer to my last question I understood the
5 witness to say that he did not agree in part with the
6 statement that I read. Wherein do you state that is not
7 a correct statement?

8 A Before replying to this question I should like
9 to offer some explanation: --
10

11 Q Just a moment.

12 MR. TAVENNER: I believe the witness should
13 be required to answer the question.

14 MR. BROOKS: If the Court please, there was
15 a question on the translation of the witness' answer
16 and I think that may be what the witness has to explain
17 and I would like for him to be able to be allowed to
18 explain.

19 Q What did your explanation relate to?

20 A What I wish to say refers to that point.

21 Q Just a moment. I suggest that you answer the
22 question rather than to make a speech preliminary to the
23 answer.

24 A I was associated with the Concordia Society
25 from 1928 to 1934. Therefore, I am not informed as to the

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activities of the Society since that date.

1 MR. T. OKAMOTO: Excuse me, Mr. President,
2 there was one place left out in the translation. He
3 stated that --

4 THE PRESIDENT: It may look reasonable enough
5 to you, but we must insist that this matter be rectified
6 in the proper way.

7 MR. TAVENNER: Is there any addition by the
8 Translation Pool to the answer?

9 THE INTERPRETER: Correction: From "I was
10 associated with the Concordia Society from 1928 to 1934
11 when I resigned due to differences of opinion. Therefore,
12 I am not informed of the activities of that Society since
13 that date."

14 Q That is not an answer to my question, Mr. Witness,
15 I asked you if the statement I read constituted a correct
16 statement of the aims and purposes of your organization
17 at the time you were a member of it.

18 A (No response)

19 MR. TAVENNER: I didn't get any translation.

20 THE MONITOR: There has been no answer yet, sir.

21 A I understand that the question was whether I
22 agreed to the objects and purposes of the Kyo-Wa-Kai
23 Society as you read it.

24 THE MONITOR: What that was to me was whether
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the passage read to me was in conformity with the aims
1 and purposes of the Society.

2 Q That is correct.

3 A As I mentioned previously, the aims of the
4 Concordia Society at the time it was established dealt
5 mostly with domestic situation. In fact, there was no
6 time to think of international affairs. Therefore, we
7 had no ideas at all with regard to the international
8 relations, but it seems that the prosecutor has requested
9 me to answer -- questioned me regarding the international
10 policy of the Organization as he read it.

11 THE INTERPRETER: Asking me whether that statement
12 is correct or not.

13 A (Continuing) The time element also -- It
14 involves a lapse of 5 or 6 years and what occurred after
15 that -- since that time -- I do not know what policies
16 were adopted by the leaders of the Concordia Society.

17 THE MONITOR: Correction: I do not know why
18 the Concordia Society later came to adopt such a policy
19 as read to me. It is difficult to answer immediately
20 upon being read just a portion of the question -- for me
21 to answer whether it is good or bad, having only a portion
22 of it read to me.

23 Q Was the accused ITAGAKI, Senior Staff Officer
24 of the Kwantung army, a member of the committee for the
25

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1 organization of your Society?

2 A Military officers did not participate in the
3 committee for it's establishment.

4 Q Do you mean by that reply to state that ITAGAKI
5 was not a member of the committee for the organization
6 of your Society?

7 A Yes..

8 Q I will read you the third paragraph from the
9 beginning of page 1 of exhibit 731:

10 "In April, 1932 in Mukden a special committee
11 for the foundation of the Kyo-Wa-Kai was formed. The
12 Committee was composed of: Colonel ITAGAKI, Captain
13 KATAKURA," and others named.

14 Do you still contend that Colonel ITAGAKI was
15 not a member of the organization committee of that Society?

16 A Yes, I do.

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1 Q Was the commanding general of the Kwantung
2 Army a member of the Kyo-Wa-Kai and was he concurrently
3 an advisor of that society?

4 A At the time of the establishment of the
5 Concordia Society the commander of the Kwantung Army
6 was an honorary advisor.

7 Q Did the Kwantung Army publish any documents
8 about the purposes or the essence of this society?

9 A At the time of its establishment no publications
10 were issued by the Kwantung Army but since then there
11 were some.

12 Q Who represented the Kwantung Army at the
13 conference of the society held in 1941?

14 THE PRESIDENT: 1941?

15 MR. TAVENNER: 1941.

16 THE PRESIDENT: He said he ceased to be a
17 member in 1934.

18 MR. TAVENNER: Yes, sir. He probably may not
19 know.

20 MR. BROOKS: I would object to that, your
21 Honor, as being irrelevant and immaterial, outside the
22 scope of the direct examination.

23 THE PRESIDENT: The only objection really is
24 that he wasn't a member at the time, according to his
25 answer. He cannot be expected to know if he wasn't

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1 a member, but I will allow you to put the question if
2 you press it.

3 MR. TAVENNER: I withdraw the question.

4 THE PRESIDENT: Does that exhibit 731 show
5 when that society was established?

6 MR. TAVENNER: It doesn't show the date.

7 Q Isn't it a fact that this organization was
8 directed and advised by the head of the Kwantung Army
9 as a political organization subserviant to the Kwantung
10 Army?

11 A I shall reply.

12 MR. TAVENNER: What was the answer?

13 THE MONITOR: "I shall reply," he said.

14 A (Continuing) As I mentioned before, from
15 its establishment to 1934 it was strictly an independent
16 organization. Although the understanding of the
17 Kwantung Army was sought at times, it did not work
18 under its orders.

19 Q The witness KASAGI, Ryomei testified at page
20 2791 of the record that the principal object of this
21 organization was to aid in developing and directing
22 the independence movement. Do you agree with that?

23 A KASAGI, Ryomei was a public official. I was
24 a member of the committee for the establishment of the
25 society. I have already mentioned the objects of the

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1 organization at that time. I believe I have explained
2 it explicitly.

3 Q Then do you deny the statement made by the
4 witness KASAGI as being a true statement?

5 A I do not say that the statement is actually
6 a lie but I believe that it is incomplete in many
7 respects.

8 Q This committee that was first formed consisted
9 of about 120 members, did it not?

10 A As I said before, I thought that was the number.

11 THE MONITOR: As I said before, the committee
12 members are only five.

13 MR. TAVENNER: I couldn't understand the
14 English translation. Will you repeat it please?

15 THE MONITOR: As I said before, the number
16 of committee members was only five.

17 Q Mr. KASAGI in his testimony referred to the
18 fact that there were 120 members on the committee. Do
19 you know what committee that was?

20 A I do not know.

21 Q Now the departments of this society were
22 divided into eight different headings, were they not?

23 A Do you mean the organization of the conduct
24 of business?

25 Q I am speaking of the Self-Government Guiding

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1 Board.

2 A The society, the Concordia Society and the Self
3 Government Guiding Board are two entirely different
4 organizations, although I had some part in the relation
5 with the Self Government Guiding Board when it was
6 being established, but since later on I had no part
7 in this Board and, therefore, I had only indirect
8 knowledge of it.

9 Q Was there any relation between the Self Govern-
10 ment Guiding Board and the Concordia Society?

11 A The Self Governing Board was dissolved after
12 the Concordia Society was formed; therefore, there were
13 no connections.

14 THE MONITOR: Correction: With the organiza-
15 tion or establishment of the Concordia Society, the
16 Self Governing Guiding Board was dissolved and, there-
17 fore, there is no connection or relation between the
18 two.

19 Q What was your connection with the Self Govern-
20 ment Guiding Board which succeeded the Concordia
21 Society?

22 A The Concordia Society was established after
23 the Self Government Guidance Board was dissolved.

24 Q What was the date of the dissolution of the
25 Self Government Guiding Board, then?

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CROSS

1 A The group, the body was established -- existed
2 until the establishment of the government, of the state.
3 Therefore we took the view that actually it was
4 dissolved with the formation of the state on the first
5 of March.

6 Q The first of March of what year?

7 A 1932.
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1 Q And when was it organized?

2 A Do you mean the Self-Government Guiding
3 Board?

4 Q Yes.

5 A As I recall it, it was in November of 1931.

6 Q I asked you a few moments ago what your
7 connection was with that organization, the Self-
8 Government Guiding Board. Will you tell me?

9 A I had no relations -- connections with the
10 Self-Government Guidance Board.

11 Q You told us a few moments ago that you were
12 connected with it to some extent. What did you mean
13 by that?

14 A At the time the Self-Government Guidance
15 Board was directed -- was being established, in its
16 preparatory stage, several points occurred in rela-
17 tion to communications, and I was consulted on one
18 or two occasions.

19 I shall continue: After the preparatory work
20 had been completed, a committee for the establishment
21 of this Self-Government Guidance Board was establish-
22 ed. With that group I had no relation whatsoever.

23 THE PRESIDENT: What commander of the
24 Kwantung Army was the honorary adviser of the society?

25 THE WITNESS: Lieutenant General Shigeru

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CROSS

1 HONJO.

2 Q What other commanders of the Kwantung Army
3 were advisers?

4 A I recall that, with each change of the
5 commander-in-chief of the Kwantung Army, the new
6 commander was nominated to be an honorary adviser.
7 I should like to be permitted to add a few -- one or
8 two points: General HONJO, when he was commander of
9 the Kwantung Army, accepted the post as honorary
10 adviser, but the next commander, General MUTO, did
11 not accept.

12 Q With the exception of General MUTO, did all
13 of the succeeding commanders of the Kwantung Army
14 act as honorary advisers to this society?

15 A With respect to the commanders of the Kwan-
16 tung Army following General MUTO, I was not in a
17 position of responsibility of the Concordia So-
18 ciety. Therefore -- Rather, I was outside of the
19 sphere of its activities. Therefore, I cannot say
20 definitely. But I recall that the successive com-
21 manders did accept.

22 THE MONITOR: Slight correction: I cannot
23 give accurate answer; but, as I recall, most of the
24 succeeding commanding officers did accept the post
25 or position.

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1 THE PRESIDENT: Did the witness say the
2 Concordia Society came into existence after the
3 dissolution of the Self-Government Guiding Board?
4 It would have come into existence in 1932.

5 MR. TAVENNER: Yes, sir.

6 THE PRESIDENT: But did he say he was a
7 member in 1928?

8 THE WITNESS: The Self-Government Guidance
9 Board was dissolved in March, 1932, and the committee
10 for establishment of Concordia Society was established
11 in April, 1932; and on 25th of July, 1932 the cere-
12 mony for inauguration of the Concordia Society was
13 held.

14 THE PRESIDENT: Well, we understood you to
15 say that you were a member of the Concordia Society
16 from 1928 until 1932 -- 1934.

17 THE WITNESS: Do you mean to say from 1928
18 to 1934?

19 THE PRESIDENT: That is the impression we
20 formed. Whether wrongly translated or whether we
21 misunderstood what you said, I do not know.

22 MR. TAVENNER: I will try to clear it up,
23 your Honor.

24 THE PRESIDENT: Thank you.
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CROSS

1 BY MR. TAVENNER (Continued):

2 Q Over what period of time were you a member
3 of the Concordia Society?

4 A From April, 1932 to September, 1934.

5 Q Now, what societies were you a member of
6 prior to 1932 in Manchuria?

7 A From 1928 to 1932 I was connected with the
8 Youths Federation of Manchuria.

9 THE MONITOR: The establishment and manage-
10 ment of the Youth Federation of Manchuria.

11 Q Now, returning for a few minutes to the
12 Concordia Society, are you familiar with the action
13 of the Cabinet Council on March 1, 1932 with regard
14 to the seizure of military power in Manchuria?

15 THE MONITOR: Mr. Tavenner, do you refer to
16 the Japanese Cabinet Council, or what cabinet is it,
17 sir?

18 MR. TAVENNER: Japanese Cabinet Council.

19 A With respect to the Japanese Government I
20 am not informed.

21 Q I would like to ask you whether the work of
22 the Concordia Society in Manchuria was performed
23 under or in cooperation with this provision of the
24 Cabinet Council meeting -- Japanese Council meeting
25 of March 1 -- that is, March 1, 1932. I will read a

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1 short paragraph, paragraph five in exhibit 222. The
2 pool does not have this exhibit.

3 "Regarding our seizure of real military
4 power, we should try to establish accomplished status
5 according to the right of subjugating bandits and
6 the policy of protecting Empire subjects which were
7 recognized by the League of Nations." In other
8 words, was it the intent of your society?

9 A No.

10 Q I will read the following short paragraph:

11 "Regarding our grasp of real power on foreign and
12 home affairs, we should let her appoint small number
13 of Japanese as the officials or counsellors at first,
14 which may be enlarged gradually later." Did that
15 represent the action of the Japanese officials in
16 Manchuria?

17 A I was unable to get the gist of that ques-
18 tion. Will the language section read the question
19 back?

20 (Whereupon, the question referred
21 to was read by the official court reporter.)

22 A (Continuing) I have not heard of such an
23 example -- such an order.
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CROSS

1 Q Do you mean to say that the direction of
2 the Cabinet Council was not carried out in those
3 respects?

4 A Yes, I believe so.

5 Q I refer now to exhibit No. 223, which is
6 the Cabinet Council meeting of 11 April 1938 --
7 1932, and I will ask you if these directions of
8 the Cabinet Council were carried out in Manchuria.

9 (Reading) The new State shall employ
10 authoritative advisors from our country and make
11 them the highest advisors in connection with
12 finance, economic and general political problems.

13 THE MONITOR: Will the court reporter read
14 that question back slowly, please?

15 (Whereupon, the last question
16 was read by the official court reporter.)

17 Q The new State shall appoint competent
18 Japanese nationals to the leading posts in the Privy
19 Council, the central bank, and other organs of the
20 new State.

21 My question was whether or not those
22 directions of the Privy Council -- of the Cabinet
23 Council meeting of April 11, 1932 were carried out
24 in Manchuria.

25 MR. BROOKS: If your Honor please, I want

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1 to object to this question because it assumes that
2 this discussion before this council was put in the
3 form of a directive, and there is no evidence before
4 this Court other than the prosecutor's unsworn
5 statement, that such were ever put in the form of
6 a directive for action.

7 This was not the decision of the Cabinet
8 as a whole, but a council in the Cabinet, as I under-
9 stand it, and there is no evidence before this Court
10 that the matter referred to here was utilized in
11 this early period. I know there were discussions
12 later in reference to the treaty.

13 THE PRESIDENT: Mr. Tavenner.

14 MR. TAVENNER: The document shows that it
15 is the decision of a Cabinet conference of April
16 11, 1932.

17 THE PRESIDENT: On that basis the objection
18 is overruled. You must answer. If there is no
19 objection, this is outside the scope of the examina-
20 tion in chief. I don't know what he knows about
21 Cabinet decisions.

22 MR. BROOKS: If your Honor please, the
23 objection could be made that the witness stated he
24 was in Manchuria during this time, and I thought if
25 the Court wanted to hear this I wouldn't raise the

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1 objection -- to save time.

2 THE PRESIDENT: It is not within the scope
3 of the examination in chief, if I understand the
4 reason for calling him here, and his qualifications.

5 MR. TAVENNER: There was no mention of
6 Cabinet Councils in his examination in chief.

7 THE PRESIDENT: No mention of Cabinets, that
8 I recollect. He is here to depose about the forma-
9 tion of societies, as a railway official in Man-
10 churia who was associated with their formation. Is
11 that too narrow a view I am taking?

12 MR. TAVENNER: I think so, and I would
13 like to state my reasons.

14 The witness has testified at length regard-
15 ing autonomous movements in Manchuria. This evidence
16 shows that much of what was being testified to is
17 the result of action or is influenced by action of
18 the Cabinet conferences in Tokyo, that they do not
19 have the free character of autonomous movements but
20 they were influenced by the appointment of Japanese
21 personnel and by the seizure of military control.

22 THE PRESIDENT: But what knowledge has he
23 manifested of Cabinet activities and decisions?
24 He may have, but I do not recollect any though.

25 MR. TAVENNER: It is true he has not men-

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1 tioned Cabinet Council meetings, but in order to
2 rebut the inference that he has attempted to draw
3 from his testimony I think we are entitled to ask
4 him these questions about the excuses.

5 THE PRESIDENT: Objection upheld.

6 There is a more important matter. I am
7 about to receive an application in Chambers for
8 thirty witnesses, all Japanese living in Tokyo, who
9 are to testify on this issue or phase. It is my
10 intention, if I think it proper, to require the
11 evidence to be given on affidavit and copies of
12 the affidavit to be served on the Judges three days
13 before the evidence is heard in Court. In other
14 words, I intend to require evidence on affidavit.
15 Hitherto it has been a matter of option. It is an
16 immense departure -- a departure of vital importance.
17 It may lead to us having to decide questions of
18 admissibility without argument. It may, of course,
19 be argued that that will be inconsistent with a
20 fair trial, but if that argument succeeds we will
21 have to hear the objections in Court after argu-
22 ment. I should say, we will have to decide in Court
23 after argument, in that event.

24 We will adjourn until half-past nine
25 tomorrow morning.

1 (Whereupon, at 1600, an adjourn-
2 ment was taken until Friday, 21 March,
3 1947, at 0930.)

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